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CLEARINGHOUSE RULE 98-029

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

1. Statutory Authority

a. What is the authority in s. Adm 22.03 for the cross-reference to s. 16.85, Stats.? Section 16.855 (23) (b) (intro.), Stats., as affected by 1997 Wisconsin Act 27, authorizes the department to accept a digital signature in connection with any bid or proposal submitted or contract entered into under “this section.” “This section” refers to s. 16.855, Stats.

b. Section 16.855 (23) (d), Stats., as affected by 1997 Wisconsin Act 27, directs the department to promulgate rules to “govern the use of” digital signatures. Arguably, s. Adm 22.03, by merely providing that digital signatures may be used at the discretion of the department, does not comply with the statutory directive. In other words, the rule does not indicate any standard upon which the exercise of the department’s discretion is to be based.

2. Form, Style and Placement in Administrative Code

In s. Adm 22.04, “shall” should be substituted for “will.”